IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 11426 of 2004(I)

PETITIONER:

THE TRUSTEE, SRI.THIRUMANDHAMKUNNU
BHAGAVATHY DEVASWOM, POST BOX NO.5,
P.O.ANGADIPURAM, ANGADIPURAM 679321,
MALAPPURAM DISTRICT, REPRESENTED BY HIS POWER
OF ATTORNEY HOLDER, A.C.VENUGOPALA RAJA.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:
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1. THE COMMISSIONER HR&CE (ADMINISTRATION),
DEPARTMENT, GOVERNMENT OF KERALA, CIVIL STATION,
KOZHIKODE.
2. THE GOVERNMENT OF KERALA, REPRESENTED BY
THE PRINCIPAL SECRETARY, DEPARTMENT OF REVENUE
(DEVASWOMS), GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695 001.
3. THE GOVERNMENT OF KERALA, REPRESENTED
BY THE SECRETARY, DEPARTMENT OF DEVASWOMS-HE AND
CE (ADMINISTRATION), GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

Addl. 4. V.K. DILEEP, CLERK
SRI THIRUMANDHAMKUNNU BHAGAVATHY DEVASWOMS
ANGADIPURAM 679321 MALAPPURAM DISTRICT

(ADDL. R4 IS IMPLEADED AS PER ORDER DATED 29.11.2006
I.A. 16297/06)

R1 TO R3 BY GOVT PLEADER SRI K. SANDESH RAJ
R4 BY ADV. SRI.V.RAJENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.S. RADHAKRISHNAN & ANTONY DOMINIC, JJ.

W.P.C. No 11426 of 2004

Dated: 25th May, 2007

JUDGMENT

Radhakrishnan, J.

This writ petition is filed by the Trustee of Sri Thirumandhamkunnu Bhagavathi Devaswom. Ext.P5 is the order passed by the Commissioner setting aside the selection of additional third respondent and directed the temple authorities to conduct fresh selection. It is seen from Ext. P5 that the same has been issued on the strength of a complaint received from the Secretary of the organization of devotees. The order was challenged by the Trustee before the Government without any success. Aggrieved by the same, Trust has preferred the present writ petition.

2. Counsel appearing for the additional fourth respondent submitted that proper selection has been made and there is no justification in terminating the service of the additional fourth respondent. It is also noticed that no complaint has been received

so as to set aside the selection of additional fourth respondent as Clerk of the temple. Counsel submitted that the Commissioner has acted on the basis of a complaint received from a non existing body. This contention has not been controverted. In the absence of any relevant materials, we are of the view, Government is not justified in setting aside the selection based on a complaint received from a non existing organization. In such circumstances, Ext. P5 as well as Ext. P7 are set aside. The writ petition is allowed as above.

Sd/-

K.S. RADHAKRISHNAN
Judge

Sd/-
ANTONY DOMINIC
Judge

25/05/2007
en/

[true copy]

APPENDIX

Petitioner's exhibits:

Ext.P1 - True copy of the scheme dated 4.5.1966 as approved by the Deputy Commissioner - II, HR & CE (Admn) Department,Kozhikode
Ext.P2 - True copy of the notice dated 6.3.2003 published by the petitioner in the Devaswom Notice Board
Ext.P3 - True copy of the appointment letter dated 27.6.2003 issued by the petitioner to Shri V.K. Dileep
Ext.P4 - True copy of the intimation dated 27.6.2003 submitted by the petitioner before the first respondent
Ext. P5 - True copy of the order dated 1.11.2003 issued by the first respondent to the petitioner
Ext.P6 - True copy of the revision petition dated 1.12.2003 filed by the petitioner before the second respondent
Ext.P7 - True copy of the order dated 26.2.2004 issued by the third respondent to the petitioner.

Respondent's exhibits:

Ext.R4(a) - True copy of the order dated 3.7.2004 of the writ petitioner.

Ext.R4(b) - True copy of the letter dated 10.11.2006 of the Welfare Fund Board.

[true copy]